HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITIONS Nos:15839 & 15966 OF 2007

Dated: 26.07.2007

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W.P.No.15839 of 2007

Between:

1. G. Padmalatha and others

..**Petitioners**

And

1. The State of A.P., represented by its Secretary, Education Department, Secretariat, Hyderabad and others.

..Respondents

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W.P.No.15966 of 2007

Between:

1. Pappanaboina Ramakalyan Kumar

..**Petitioner**

And

1. The State of A.P., represented by its Secretary, Education Department, Secretariat, Hyderabad and others.

..Respondents

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITIONS Nos:15839 & 15966 OF 2007

COMMON ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

These two writ petitions are filed by the petitioners challenging the common order, dated 03.05.2007 passed by the A.P. Administrative Tribunal in O.A.No.1719 & 2147 of 2007 respectively and batch.

Since the issue involved in these two writ petitions is one and the same and the W.Ps are the outcome of a common order in the above O.As and batch, they are being disposed of by a common order.

The petitioners along with others, who are the applicants, filed the above O.As. seeking to declare G.O.Rt.No.141, Education, dated 6.3.2007 of the 1st respondent canceling the D.S.C.2006 in respect of the S.G.T. Telugu in Kadapa District as arbitrary and illegal and consequently, to direct the respondents to consider their cases for appointment as Secondary Grade Teachers.

It is the case of the applicants that they have appeared for the D.S.C examination held on 9.9.2006 for the post of Secondary Grade Teachers (Telugu) in Kadapa District and they were declared selected as per the results published by the 1st respondent on 31.10.2006. While so, on the allegation against the officers of the 3rd respondent as to the tampering of O.M.R. sheets as well as receipt of bribes, the examination held on 9.9.2006, was cancelled. Hence, the applicants along with others, who were declared to have been selected filed the above O.As. on the ground that during the course of investigation, it has come to light that O.M.R. sheets of 46 candidates were manipulated and therefore, cancellation of whole examination would cause deprivation to the right of the selected candidates to the appointment.

The Tribunal having observed that the applicants were provisionally declared to have been selected and mere selection/empanellment for appointment or promotion does not confer any right to get appointment, dismissed the O.As. Having aggrieved by the same, the present writ petitions have been preferred.

Heard the learned Counsel for the petitioners and the learned Government Pleaders for Education and Home.

It is contended by the learned Counsel for the petitioners that the investigation itself reveals that malpractice was played in respect of 46 candidates only and they were debarred from writing the re examination. It is further contended that when it is found that 46 candidates have involved in tampering of OMR sheets and they were debarred, the cancellation of whole examination resulting in deprivation of right of selected candidates to be appointed, is illegal and arbitrary and the tribunal passed the impugned order at the admission stage without affording any opportunity to the respondents to put forth their case and therefore, the order of the tribunal is liable to be set aside.

On the other hand, the learned Government Pleaders for Education and Home have fairly conceded as to the non filing of the counters before the tribunal.

As can been from the material on record as well as the order impugned, it is crystal clear that the respondents-officials have not filed their counters and no material was placed before the Tribunal as to the alleged malpractices. It is also apparent that on the oral submissions of the Government Pleader, the Tribunal passed the order holding that the applicants have no right to agitate for appointment as a matter of right basing on the empanellment.

In that view of the matter, without expressing any opinion on the merits of the case, we feel it appropriate to remit the matter back to the tribunal for fresh disposal after affording an opportunity to both the parties and after filing of the respective counters.

Accordingly, both the writ petitions are allowed setting aside the order of the tribunal and the matter is remanded for fresh disposal. The tribunal shall afford an opportunity to the respondents to file their counters, within a period of two months from the date of receipt of a copy of the order and dispose of the matter within a period of three months thereafter.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 26th July, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITIONS Nos:15839 & 15966 OF 2007

(Common Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

26/07/2007

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